



K A N S A S

JOHN P. SMITH, ADMINISTRATOR

DEPARTMENT OF CREDIT UNIONS

MARK PARKINSON, GOVERNOR

March 1, 2010

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-34218

Re: Proposed Corporate Credit Union Regulations with conforming amendments to Part 702, Part 703, Part 709 and Part 747

Dear Ms. Rupp:

We appreciate the opportunity to provide comments to the National Credit Union Administration (NCUA) Board concerning NCUA's proposed changes to the corporate credit union rule, Part 704, with conforming amendments to Part 702, Part 703, Part 709, and Part 747.

As the state regulator responsible for the safety and soundness of Kansas chartered natural person credit unions and Kansas Corporate Credit Union, we share many of NCUA's concerns about corporate credit unions, especially with regard to maintenance of sufficient capital levels, suitability of investments, asset liability management and concentration risk.

We have reviewed the proposed changes and recommend that NCUA consider additional amendments of the proposed regulations.

Overview of Corporate Credit Unions

By nature of their business corporate credit unions provide systemic risk to their natural person credit unions member owners/investors. As has been discovered through the events of the past two years, regulations cannot prevent avoidance of total risk. In addition to regulations the regulatory environment must be sufficiently robust to provide assurance that the investments, payment systems and other activities engaged in by corporate credit unions are safe and sound without exposing their members to undue risk.

Role of the State Regulator

Throughout the proposed changes to Part 704, the role of the state regulator in all regulatory decisions must be included when the corporate credit union is chartered by the state. The respective state regulator should be consulted in all decisions regarding the state chartered

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corporate credit union. Additional amendments to Part 704 and the conforming amendments to other regulations should be made by NCUA to ensure the role of the state regulator is included. As state regulators are responsible for the safety and soundness of natural person credit unions chartered by the states, NCUA must share information with state regulators about corporate credit unions where natural person credit unions utilize their services. NCUA should include state examiners on the teams that examine all corporate credit unions.

NCUA has engaged consultants to provide additional expertise in the evaluation of corporate credit unions services and products. NCUA is encouraged to continue the use of consultants when appropriate and should share results of their work products with state regulators.

Section 704.3 Corporate Credit Union Capital

The proposed regulation requires a corporate credit union to meet a 0.45% retained earnings ratio by the end of three years; 1.00% after 6 years; and 2.00% after ten years. Additionally, the 4% leverage ratio must be met within twelve-months after implementation of the regulation with only retained earnings and perpetual contributed capital used to meet the leverage ratio.

Given the current economic and interest rate environment, it is unrealistic to require the retained earnings portion of the leverage ratio to be met by the end of three years. NCUA should amend the proposed regulation and provide additional time to achieve the periodic benchmarks for the retained earnings portion of the leverage ratio. The time period for attaining the leverage ratio requirement should be effective three years after the regulation is approved instead of one year. Additionally, the periodic benchmark to achieve the retained earnings portion of the leverage ratio should be changed to four, eight and twelve years.

Should loss projection improve, the proposed rule does not allow corporates to replenish capital back to existing capital holders. GAAP does not require the permanent depletion of capital based on estimated losses created by OTTI models. Allowing corporates to replenish capital back to existing capital holders would lessen the strain on the system as a whole.

Section 704.8 Asset Liability Management

In general NCUA has proposed new regulations requiring additional ALM testing of which some may be appropriate but taken altogether may be inappropriate. The additional spread testing, mismatch limitations and the two-year weighted average life maximum in addition to the currently required NEV testing represent a layered regulatory framework that is overly restrictive. No one expected the financial breakdown that precipitated the current economic crisis and the current extended recovery. Specific comments and recommendations on sections of the proposed ALM subsections of the proposed regulations follow.

Section 704.8 (e) (1) (i) Asset Liability Management

The spread widening test as proposed coupled with a decline in NEV limited to 15% as proposed is too restrictive and may severely hamper corporate credit unions' ability to generate sufficient earnings. The proposed rule should be amended to allow for a graduated spread widening test whereby high quality assets are subject to less spread widening than lower quality investments. This could coincide with the risk weight assigned to the investment.

Section 704.8(h) Weighted Average Life (WAL)

The WAL of a corporate credit union's investment portfolio may not exceed two years. This new requirement may be too short and hinder corporate credit unions ability to make term loans

beyond two years or react appropriately to flat or inverted yield curves. This section should be modified to provide flexibility or eliminated as other measurements such as NEV are sufficient.

Section 704.8(f) Cash Flow Mismatch Analysis

This analysis is in addition to the WAL portfolio limit of two years and the spread widening tests. NCUA should consider eliminating this test or applying the test only to the prepayment speed of mortgage-backed securities.

Section 704.14 Board Representation

The proposed 704.14 mandates term limits and qualifications for directors based on job title. In a state chartered corporate credit union, the composition of the board and the qualifications of individual board members is properly the role of state law and regulation. Preemption of state law in the case of a state chartered corporate credit union would occur with the implementation of 704.14. This is simply unnecessary.

Qualifications for directors based on job title are questionable. The board of directors or the corporate credit union bylaws should specify qualifications for directors.

With respect to term limits, there is no proven advantage to requiring board members only serve a set amount of time. Establishing term limits would disadvantage a small state like Kansas with a limited pool of credit unions from which to recruit qualified board members.

There is no guarantee that setting a term limit would improve corporate governance, as those most qualified to serve could be forced to step down. Establishing term limits would be an impediment to recruiting qualified board members in a small state like Kansas with a limited pool of credit unions from which to recruit qualified board members. We recommend lengthening the term to nine years or to eliminate this requirement.

In general the proposed Section 704.14 is confusing and should be restated in a clear understandable manner.

In summary, we appreciate NCUA's efforts to establish a regulatory framework that will ensure safety and soundness of the corporate credit unions and ensure natural person credit unions are never again exposed to the risks and losses that have occurred the past two years and will extend into the next six years.

We appreciate the opportunity to provide comments.

Yours Truly,



John P. Smith
Administrator

Cc: Kansas Credit Union Council
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